

## **922 KAR 1:305. Licensure of child-caring facilities and child-placing agencies.**

RELATES TO: KRS 199.011(2), (3), (4), (6), (7), 199.640, 199.670, 199.990, 600.020(8)- (10), 610.110(6)

STATUTORY AUTHORITY: KRS 194A.050(1), 199.640(5)(a), (c)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 199.640(5)(c) authorizes the Cabinet for Health and Family Services to promulgate administrative regulations relating to licensure for child-caring facilities and child-placing agencies.

Section 1. Definitions. (1) "Advisory board" means a group of citizens, approved by the board of directors, who gives advice, counsel, and support to a child-caring facility or a child-placing agency.

(2) "Cabinet" is defined at KRS 199.011(2).

(3) "Child" is defined at KRS 199.011(4), 600.020(8), and 610.110(6).

(4) "Child-caring facility" is defined at KRS 199.011(6) and 600.020(9).

(5) "Child-placing agency" is defined at KRS 199.011(10).

(6) "Division" means the Division of Licensed Child Care, Office of the Inspector General.

(7) "Licensee" means an individual, partnership, corporation or other entity authorized to operate a child-caring facility or child-placing agency, including a board of directors and a person authorized to make application.

Section 2. Initial Application. (1) An applicant for a license shall submit to the division a:

(a) Completed Application for Licensure to Operate a Child-Caring Facility or a Child-Placing Agency, Form OIG 136;

(b) Licensure fee designated in KRS 199.640(4);

(c) Copy of the Articles of Incorporation on file with the Secretary of State, if the applicant is a corporation;

(d) Mission statement of purpose, objective, scope of service provided, and intake policy specifying the type of child to be accepted for care;

(e) Copy of the constitution and bylaws;

(f) List of officers, board members, and advisory board members, if any, including the address and profession;

(g) Name and title of each officer and the term of office; and

(h) List of staff including position or title and qualifications.

(2) A license issued by the division shall be:

(a) For a specific physical location within the state;

(b) For operation by a specific licensee;

(c) Nontransferable;

(d) Approved and documented by the State Fire Marshal before a licensure survey is conducted; and

(e) Awarded if an on-site inspection, described in Section 6 of this administrative regulation, results in:

1. A determination that the applicant qualifies for licensure as established in 922 KAR 1:300 or 922 KAR 1:310; or

2. An acceptable plan of correction described in Section 4 of this administrative regulation, if applicable.

(3) A child-caring facility or a child-placing agency operating without a license shall be subject to legal action, pursuant to KRS 199.990.

Section 3. Renewal Licensure. Relicensure shall be in accordance with KRS 199.640(3), and shall require the following procedures:

(1) The applicant shall submit a:

(a) Completed Application for Licensure to Operate a Child-Caring Facility or a Child Placing Agency, Form OIG 136; and

(b) Licensure fee designated in KRS 199.640(3).

(2) The applicant shall provide the following documentation to the annual inspector:

(a) A list of officers, board members, and advisory board members, if any, including address and profession;

(b) The name and title of each officer and term of office; and

(c) A list of staff that includes position or title and qualifications.

(3) The child-caring facility or child-placing agency shall comply with its mission statement, program narrative, and applicable federal and state administrative regulations in regard to the program operation.

(4) The child-caring facility or child-placing agency shall have an annual financial audit completed by an independent accounting firm or a certified public accountant.

(5) Notification of a change in the following shall be made to the division in advance to allow for approval from the division, and the State Fire Marshal when applicable, before implementation:

(a) Ownership or sponsorship;

(b) Location approval documented by the State Fire Marshal; or

(c) Service type provision described in 922 KAR 1:300 or 922 KAR 1:310;

(d) Increase in capacity approval documented by the State Fire Marshal; and

(e) The addition of a new building or converting of administrative space to living space approval documented by the State Fire Marshal.

(6) A renewal license shall be issued by the division if the division determines the applicant qualified for renewal licensure in accordance with 922 KAR 1:300 or 922 KAR 1:310.

(7) The child-caring facility or child-placing agency shall post its license in a place visible to the public.

(8) A license shall not be sold or transferred.

(9) Change of ownership.

(a) A prospective new owner shall submit:

1. A Licensing and Regulation Application for Licensure to Operate a Child-Caring Facility or a Child-Placing Agency, form OIG 136;

2. A fee as specified in Section 2(1)(b) of this administrative regulation; and

3. If the child-caring facility increases capacity, documentation of approval by the Office of the State Fire Marshal.

(b) The division shall perform an on-site inspection, pursuant to KRS 199.640(3) and (5).

(c) The effective date of a license granted on an application for change of ownership shall be:

1. For a child-caring facility or a child-placing agency that meets requirements of this administrative regulation and 922 KAR 1:300 or 922 KAR 1:310, the date the child-caring facility or the child-placing agency is acquired by the new owner;

2. For a child-caring facility or a child-placing agency that does not meet requirements, the date that compliance with this administrative regulation and 922 KAR 1:300 or 922 KAR 1:310 is achieved; or

3. For a child-caring facility requesting an increase in capacity, not before the approval date issued by the State Fire Marshal.

(10) Changes to the child-caring facility or the child-placing agency.

- (a) A licensee shall notify the division, in writing, if there is a change to the child-caring facility or child-placing agency, as described in subsection (5) of this section.
- (b) The notification shall be signed by each owner listed on the license application.
- (c) A fee shall not be charged.

Section 4. Corrective Plans. (1) The division shall perform an on-site inspection, as required by KRS 199.640(3) and (5). A regulatory violation of the standards identified in 922 KAR 1:300 or 922 KAR 1:310 during inspection shall be reported to the child-caring facility or the child-placing agency in a written statement of deficiency. An applicant or licensee may request the opportunity to informally dispute a deficiency, pursuant to KRS 199.670(4).

(2) Unless a request for the opportunity to informally dispute a deficiency has been made, the child-caring facility or child-placing agency shall submit, within ten (10) days of receipt of the statement of deficiency, a written plan for the elimination or correction of a violation. The plan shall detail:

- (a) Specific action undertaken to correct a violation;
- (b) The date action was initiated; and
- (c) Action utilized to assure ongoing compliance.

(3) The division shall review the plan and notify the child-caring facility or the child-placing agency, in writing, of the decision to:

- (a) Accept the plan;
- (b) Not accept the plan; or

(c) Deny, suspend, or revoke the license, as described in Section 7 of this administrative regulation.

(4) A notice of unacceptability shall state the specific reasons the plan is unacceptable.

(5) A child-caring facility or a child-placing agency notified of unacceptability of its plan shall, within ten (10) days of notification:

- (a) Submit an amended plan; or
- (b) Have its license revoked or denied.

(6) If the Cabinet for Health and Family Services proposes to deny, suspend, or revoke an application or licensure, the division shall notify the applicant or licensee, in writing, of the right to request an informal dispute resolution meeting as required by KRS 199.670(2).

(7) A license shall be issued as required by KRS 199.640(4), if the child-caring facility or the child-placing agency has met the requirements of this administrative regulation and 922 KAR 1:300 or 922 KAR 1:310.

Section 5. Fees. (1) A licensing fee shall be charged as required by KRS 199.640(4).

(2) A check or money order payable to the Kentucky State Treasurer shall be attached to the licensure application.

(3) A fee shall not be refunded if an inspection has been made by the division or the State Fire Marshal's Office.

Section 6. Inspection. (1) Inspection of a licensed child-caring facility or child-placing agency shall be made as described in administrative regulations established by authority of KRS 199.640(3) and (5)(d); and

(2) A human services surveyor or other representative of the division shall have access to the child-caring facility or child-placing agency at any time.

Section 7. Basis for Denial, Suspension or Revocation. (1) The division shall deny an application or suspend or revoke a license if the applicant or the licensee:

(a) Fails to meet the requirements of this administrative regulation or those of 922 KAR 1:300 or 922 KAR 1:310; or

(b) Has been convicted:

1. Of a sexual offense designated in KRS Chapter 510, 529.020 to 529.050, 530.020, 530.064, or 531.300 to 531.370;

2. Of a crime of abuse, neglect or exploitation of a child, as established in KRS 508.100 to 508.120; or

3. As a violent offender, established in KRS 17.165(2); or

(c) Is listed on the central registry as described in 922 KAR 1:470.

(2) Effect of denial or revocation. The division shall not accept an application to operate a child-caring facility or a child-placing agency from an entity that:

(a) Previously had a license denied, suspended, or revoked for a reason described in subsection (1)(b) of this section; or

(b) Within the previous five (5) years, voluntarily forfeited a license after the cabinet initiated denial or revocation action.

(3) A penalty for violation of this administrative regulation shall be determined by reference to KRS 199.990.

Section 8. Right of Appeal. (1) If an application or license has been denied, suspended, or revoked, the division shall proceed in accordance with KRS 199.670(2) and (3).

(2) If, within fifteen (15) days after receiving notice of the division's action, the applicant or licensee requests a hearing, the division shall:

(a) Appoint a hearing officer; and

(b) Proceed pursuant to KRS 13B.050.

(3) The cabinet may take emergency action pursuant to KRS 199.670(3).

Section 9. Incorporation by Reference. (1) "OIG 136, Application for Licensure to Operate a Child-Caring Facility or a Child-Placing Agency, March, 2002", is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Office of the Inspector General, Cabinet for Health and Family Services, 275 East Main Street, Frankfort, Kentucky, Monday through Friday, 8 a.m. to 4:30 p.m. (26 Ky.R. 2181; Am. 27 Ky.R. 569; 1007; eff. 10-16-2000; 28 Ky.R. 1716; 2229; 2609; eff. 6-14-2002; TAm eff. 10-27-2004; TAm eff. 1-27-2006.)